

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Jason Altheide,  
5 Plaintiff

6 v.

7 State of Nevada et al.,  
8 Defendants  
9

2:17-cv-02028-JAD-NJK  
Order Dismissing Case

10 Pro se plaintiff Jason Altheide is serving two consecutive life sentences  
11 without the possibility of parole after he was convicted as a habitual criminal.<sup>1</sup> He  
12 filed this civil-rights complaint under 42 U.S.C. § 1983 with an incomplete  
13 application to proceed *in forma pauperis*,<sup>2</sup> and Magistrate Judge Koppe allowed  
14 Altheide until October 20, 2017, to file a completed pauper application or pay the  
15 full \$400 filing fee to avoid having this case dismissed.<sup>3</sup> The deadline has now  
16 expired, and Altheide has not filed a completed application, paid the filing fee, or  
17 otherwise responded to the court's order.

18 District courts have the inherent power to control their dockets and “[i]n the  
19 exercise of that power, they may impose sanctions including, where appropriate . . .  
20 dismissal” of a case.<sup>4</sup> A court may dismiss an action, with prejudice, based on a  
21 party's failure to prosecute an action, failure to obey a court order, or failure to  
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23 <sup>1</sup> See ECF No. 1-1 at 1; *see also* NEV. DEP'T OF CORRECTIONS,  
24 <http://doc.nv.gov/Inmates/Home> (Last visited Oct. 31, 2017) (click on “Inmate  
25 Search” and then search by name for Jason Altheide or by offender ID 1169889).

26 <sup>2</sup> ECF No. 1.

27 <sup>3</sup> ECF Nos. 3, 7.

28 <sup>4</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 comply with local rules.<sup>5</sup> In determining whether to dismiss an action for lack of  
2 prosecution, failure to obey a court order, or failure to comply with local rules, the  
3 court must consider several factors: (1) the public's interest in expeditious  
4 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of  
5 prejudice to the defendants; (4) the public policy favoring disposition of cases on  
6 their merits; and (5) the availability of less drastic alternatives.<sup>6</sup>

7 I find that the first two factors weigh in favor of dismissal. The risk-of-  
8 prejudice factor also weighs in favor of dismissal because a presumption of injury  
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the  
10 court or prosecuting an action.<sup>7</sup> The fourth factor is greatly outweighed by the  
11 factors in favor of dismissal, and a court's warning to a party that his failure to obey  
12 the court's order will result in dismissal satisfies the "consideration of alternatives"  
13 requirement.<sup>8</sup> Judge Koppe warned Altheide that if he did not comply with her  
14 order, "dismissal of this action may result."<sup>9</sup> He did not comply, so dismissal is  
15 appropriate.

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16  
17 <sup>5</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for  
18 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir.  
19 1992) (dismissal for failure to comply with an order requiring amendment of  
20 complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for  
21 failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
22 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal  
for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424  
(9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local  
rules).

23 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at  
24 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 <sup>7</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).


26 <sup>8</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at  
27 1424.

28 <sup>9</sup> ECF No. 7 at 2.

Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice to Altheide's ability to file a new § 1983 civil-rights complaint along with a completed pauper application or the \$400 filing fee.

The **Clerk of Court** is directed to **CLOSE THIS CASE**.

DATED: October 31, 2017.

  
Jennifer A. Dorsey  
United States District Judge